

Status of Action on FMP Amendments

FMP Amendment Status: <u>Actions Since December 2000 Council Meeting</u>	Date of Council Action	Start Regional Review	Transmittal Date of proposal to NMFS Headquarters for Review	Proposed FMP Amendment Notice of Availability Published	Proposed Rule Published in Federal Register	Final Rule Published in Federal Register
Groundfish FMPs						
Amends. 48/48: Reform TAC specification process	April 1998	6-2-98				
Amends. 54/54: IFQ program changes	October 1998	10-1-99				
Amends. 60/58/10: LLP 1, crab recent participation, etc. <u>Decision day is April 18, 2001</u>	October 1998; April 1999	7-28-99	<u>Jan. 2, 2001</u>	<u>Jan. 17, 2001</u> <u>66 FR 3976</u>		
Amend. 60 GOA: Cook Inlet bottom trawl ban	Sept 2000					
Amends. 61/61/13/8: AFA management of co-ops and sideboards	June 1999 June 2000 Sep. 2000					
Amends. 65/65: HAPC Part 1	April 2000					
Amend. 66 BSAI: Remove squid CDQ – Approved 8-30-00	June 1999	8-15-99	May 15, 2000	May 30, 2000 65 FR 34434	Jul. 17, 2000 65 FR 44018	<i>Draft FR under review in HQ</i>
Amend. 67 BSAI: LLP 2, gear and Pcod endorsements	April 2000					

Status of Action on Regulatory Amendments

Regulatory Amendment Status: <u>Actions Since December 2000 Council Meeting</u>	Date of Council Action	Start Regional Review of Proposed Rule	Transmittal Date of Proposed Rule to NMFS Headquarters	Proposed Rule Published in <u>Federal Register</u>	Final Rule Published in <u>Federal Register</u>
Groundfish Regulations					
VMS for Atka mackerel	June 1998	May 19, 1999	Aug. 8, 2000	June 12, 2000 65 FR 36810	Oct. 17, 2000 65 FR 61264
Chiniak trawl closure	February 2000	Mar. 30, 2000	June 2, 2000	July 3, 2000 65 FR 41044	Notice withdrawing proposed rule Oct. 12, 2000 65 FR 58727
Reduction in observer experience requirements for some CVs and processors in CDQ fisheries	NMFS	Mar. 6, 2000	June 13, 2000	July 24, 2000 65 FR 45579	Nov. 17, 2000 65 FR 69483
Extension of interim Observer Program through 2002	June 2000	Aug. 10, 2000	Aug. 25, 2000	Nov. 3, 2000 65 FR 66223	<u>Dec. 21, 2000</u> <u>65 FR 80381</u>
Extension of halibut donation program	June 2000	Jun. 21, 2000	Aug. 3, 2000	Sept 20, 2000 65 FR 56860	<u>Dec. 14, 2000</u> <u>65 FR 78119</u>
IFQ Omnibus 3	NMFS	May 20, 1998	June 1, 2000	<u>Dec. 14, 2000</u> <u>65 FR 78126;</u> <u>Comments due</u> <u>Jan. 16, 2001</u>	
Recordkeeping and Reporting rule changes for 2001	NMFS	Aug. 31, 2000	Nov. 28, 2000	<i>Draft PR under review at HQ</i>	
Crab CDQ season start date	October 1998	Nov. 27, 2000			
Commercial Operator's Annual Report (COAR)	June 1999	Sept. 16, 1999	Aug. 3, 2000	<u>Dec. 14, 2000</u> <u>65 FR 78131;</u> <u>Comments due</u> <u>Jan. 16, 2001</u>	
Length overall (LOA) definition revision	NMFS	Oct. 15, 2000	<u>Jan. 25, 2001</u>		

Regulatory Amendment Status: <u>Actions</u> <u>Since December</u> <u>2000 Council</u> <u>Meeting</u>	Date of Council Action	Start Regional Review of Proposed Rule	Transmittal Date of Proposed Rule to NMFS Headquarters	Proposed Rule Published in <u>Federal Register</u>	Final Rule Published in <u>Federal Register</u>
DSR full retention and donation rules	June 1999	<i>Analysis received from Council staff 10-25-00</i>			
Halibut charter boat GHL	February 2000: December 2000	<i>Analysis received from Council staff 7-13-00</i>			
Revision to appeals regulations re. timing of motions	NMFS				
Revision of IR-IU rules	February 1999				
Halibut Subsistence fishing provisions	October 2000	<i>Analysis received from Council staff 2-xx-01</i>			
Crab buyback program	<i>Congress December 2000</i>	<i>Proposed rule and analysis under construction at HQ with Region assist.</i>			
Halibut 4D/4E issues: trip limits; location of catch	October 1998				
HMAP					

Status of Emergency Rules and Other Actions

Emergency Rules and Other Actions Status: <u>Since December 2000 Council Meeting</u>	Date of Council Action	Start Regional Review	Transmittal Date of Action to NMFS Headquarters	Proposed Action Published in Federal Register, if any	Final Action Published in Federal Register
Interim rule to implement Court Order closing critical habitat to trawl fishing	NMFS	July 31, 2000	Aug. 8, 2000		Aug 15, 2000 65 FR 49766; Effective August 9, 2000
Final rule to remove trawl closure after Court Order lifted, except for P. cod	NMFS	<u>Dec. 7, 2000</u>	<u>Dec. 11, 2000</u>		<u>Dec. 20, 2000</u> <u>65 FR 79784</u>
Revision to final rule removing CH closure to allow non-trawl P. cod fishing in CH	NMFS	<u>Dec. 15, 2000</u>	<u>Dec. 20, 2000</u>		<u>Filed by OFR Dec. 22, 2000; Published Dec. ?? 65 FR ?????</u>
Emergency rule to revise certain AFA provisions for 2001	June 2000 September 2000	Nov. 13, 2000	<u>Dec. 22, 2000</u>		<u>Filed by OFR Jan. 18, 2001; Published Jan. 22, 2001 66 FR 7327</u>
Notice of IFQ cost recovery fee and standard prices for 2000	NMFS	Nov. 17, 2000	Nov. 24, 2000		<u>Dec. 7, 2001 65 FR 76578</u>
Notice of 2001 TAC spec. procedure	NMFS	Nov. 9, 2000	Nov. 14, 2000		Nov. 22, 2000 65 FR 70328
Notice revising 2001 TAC procedure due to Congressional substitution of July 14, 2000 TACs on Jan. 1, 2001	NMFS	<u>Jan. 1 2001 opening of groundfish fisheries announced by news release Dec. 22, 2000</u>			
Emergency rule to implement SSL protect. measures; final 2001 TACs	NMFS	<u>Jan. 8, 2001</u>	<u>Jan. 11, 2001</u>		<u>Filed by OFR Jan. 18, 2001; Published Jan. 22, 2001 66 FR 7276</u>

Emergency Rules and Other Actions Status: <u>Since December 2000 Council Meeting</u>	Date of Council Action	Start Regional Review	Transmittal Date of Action to NMFS Headquarters	Proposed Action Published in <u>Federal Register</u> , if any	Final Action Published in <u>Federal Register</u>
Notice of availability of Draft Programmatic SEIS	NMFS		<u>Jan. 4, 2001; Filed with EPA</u> <u>Jan. 19, 2001</u>		<u>Feb. 2, 2001</u> <u>66 FR ????</u> <u>End of comment period is</u> <u>April 26, 2001</u>



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

AGENDA B-3

FEBRUARY 2001

Supplemental

January 31, 2001

Mr. David Benton, Chairman
North Pacific Fisheries Management Council
605 West 4th, Suite 306
Anchorage, Alaska 99501-2252

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N.P.F.M.C

Dear Dave,

In April 2000, the North Pacific Fishery Management Council (Council) adopted a precautionary measure to control or prevent a commercial fishery from developing for certain invertebrate and plant species that are used as habitat by fish, and have been defined by the Council as Habitat Areas of Particular Concern (HAPC) biota. The action taken would amend the two fishery management plans (FMPs) governing fishing for groundfish, by placing corals, sponges, kelp and mussels in a new prohibited species category. No additional management actions would be taken immediately for kelp and mussels, but the sale, barter, trade, or processing of corals and sponges would be prohibited.

In reviewing the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) that was prepared in support of the proposed FMP amendments, we do not believe that the Council's preferred alternative would fully achieve the goal outlined in the problem statement. If approved and implemented as proposed, the FMP amendments would govern only Federally licensed groundfish vessels, and would not prevent other vessels from engaging in a commercial fishery for the HAPC species. After consideration of the following discussion, the Council may wish to reconsider this HAPC action.

Discussion

The Council adopted EA Alternative (2), Option (1), which would amend the groundfish FMPs to classify selected HAPC biota as a prohibited species. This would include corals, sponges, kelp, and mussels, all of which have commercial potential. These species currently are not covered by any FMP, and, hence, have no Federal harvest limits or reporting requirements. Further, the amendments would prohibit the sale, barter, trade, or processing of corals and sponges; however, retention of these species for personal use would be allowed. Kelp and mussels would not be subject to additional management regulations at this time.



The problem statement contained in the EA says:

The Council recognizes that some invertebrates & plants (corals, sponges, mussels, and kelp (including rockweed)), which provide important habitat for fish, have the potential to be developed into large-scale commercial fisheries. The Council currently has little or no controls on the harvesting of these invertebrates. Adopting management measures as a precautionary approach would allow the Council to control any commercial fishery that might develop.

The preferred alternative does not appear to fully accomplish the stated goal. The groundfish FMPs govern fishing only by vessels and fishermen authorized to fish for groundfish. Vessels and fishermen not required to be licensed pursuant to the groundfish FMPs are not governed by the FMPs, and would not be prevented by the Council's action from pursuing a trade in corals or sponges.

We anticipate that the State of Alaska would issue complementary regulations in State waters. However, vessels and fishermen in Federal waters that don't have groundfish licenses issued pursuant to the groundfish FMPs (including, for example, salmon vessels with State licenses) would remain unregulated with respect to harvesting corals and sponges. The EA does not consider that some vessels and fishermen would not be affected by the action.

If the Council wishes to prevent the commercial harvest of these HAPC species by all vessels and fishermen in the EEZ, then we offer the following options:

1. The most efficient option would be for the Council to request the State to prohibit commercial fishing for these HAPC species in the exclusive economic zone (EEZ) outside of State waters. Section 306(a)(3) of the Magnuson-Stevens Act provides authority for the State to regulate a vessel in the EEZ, even if it is not registered under State of Alaska laws, if it is operating in a fishery in the EEZ for which there "was no fishery management plan in place on August 1, 1996, and the Secretary and the North Pacific Council find that there is a legitimate interest of the State of Alaska in the conservation and management of such fishery." The State could use this authority to prohibit a commercial fishery for HAPC species in the EEZ beyond State waters, provided that the necessary determinations are made under Magnuson-Stevens Act Section 306(a)(3).

Such an action taken by the State would achieve the Council's goal of preventing a commercial fishery from developing for corals and sponges. This State action would make the proposed Federal action redundant because the State action would cover State waters and the EEZ.

2. The Council could adopt Alternative 3 in the EA, under which the groundfish FMPs would be amended to classify HAPC biota as a new category of groundfish. If this alternative were approved, the FMP could require a Federal fisheries permit under 50 CFR 679.4(b) to commercially harvest corals and sponges, and thereby control or prevent the development of a commercial fishery for these species pursuant to Council policy.

This alternative has the advantage over the preferred alternative of more closely achieving the stated EA goal of preventing a commercial fishery for corals or sponges from starting.

This alternative was rejected by the Council, however, because of the work that would be entailed in dealing with a problem that is, at present, only hypothetical. The Council would be required to define essential fish habitat and overfishing levels for HAPC biota, among other things.

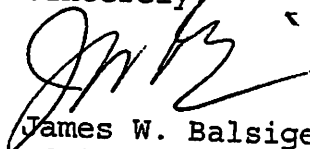
A second disadvantage is that this alternative would require complementary State action within State waters and, in light of the State's existing authority to extend its jurisdiction in the EEZ under Magnuson-Stevens Act Section 306(a)(3)(C), would result in duplicate State and Federal regulations where one State regulation alone would suffice.

3. The Council could propose a new FMP for HAPC species. This would appear to be more straightforward than classifying these biota as groundfish. This option likely would require the development of an environmental impact statement and otherwise retains the advantages and disadvantages of the previous option.

If, after review of its April 2000 HAPC action, the Council determines that no change is necessary, we will proceed with drafting proposed regulations for the Council's preferred alternative. In that event, we recommend modification of the problem statement and EA/RIR/IRFA to bring the analysis in line with the proposed action.

We are also prepared, of course, to work with the Council and the State to develop an alternative approach to controlling or prohibiting commercial fisheries for these ecologically important species.

Sincerely



James W. Balsiger
Administrator, Alaska Region



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

FEBRUARY 2001
Supplemental

February 1, 2001

David Benton, Chairman
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, Alaska 99501-2252

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FEB - 1 2001

N.P.F.M.C

Dear Mr. Benton:

On October 16, 2000, NMFS received recommendations from the State of Alaska for approval of the six Community Development Plans (CDPs) submitted by the Community Development Quota (CDQ) groups for the 2001-2002 allocations of groundfish, halibut and crab CDQ and prohibited species quota (PSQ). NMFS has reviewed the record and determined that the recommendations are consistent with the requirements set forth in 50 CFR 679.

I am pleased to announce, therefore, that the State's recommendations are approved. Table 1 summarizes the percentage allocations of CDQ and PSQ reserves to each of the six CDQ groups.

Sincerely,

James W. Balsiger
Administrator, Alaska Region

Enclosure



Table 1. 2001-2002 Community Development Quota Allocations for Groundfish, Halibut, Crab and Prohibited Species

Species or Species Group	Community Development Quota Group					
	AFICDA	BBEDC	CBSFA	CVRF	NSEDC	YDFDA
Groundfish CDQ Species						
BS FG Sablefish	15%	22%	18%	0%	20%	25%
AI FG Sablefish	15%	20%	0%	30%	20%	15%
BS Sablefish	17%	20%	10%	17%	18%	18%
AI Sablefish	24%	23%	9%	10%	10%	24%
BS Pollock	14%	21%	4%	24%	23%	14%
AI Pollock	14%	21%	4%	24%	23%	14%
Bogalof Pollock	14%	21%	4%	24%	23%	14%
Pacific Cod	16%	20%	10%	17%	18%	19%
WAI Atka Mackerel	30%	15%	8%	15%	14%	18%
CAI Atka Mackerel	30%	15%	8%	15%	14%	18%
EAI/BS Atka Mackerel	30%	15%	8%	15%	14%	18%
Yellowfin Sole	28%	24%	8%	6%	7%	27%
Rock Sole	24%	23%	8%	11%	11%	23%
BS Greenland Turbot	20%	22%	7%	15%	15%	21%
AI Greenland Turbot	16%	20%	5%	21%	20%	18%
Arrowtooth Flounder	24%	22%	9%	11%	10%	24%
Flathead Sole	20%	20%	10%	15%	15%	20%
Other Flatfish	25%	23%	9%	10%	10%	23%
BS Pacific Ocean Perch	18%	21%	7%	18%	18%	18%
WAI Pacific Ocean Perch	30%	15%	8%	15%	14%	18%
CAI Pacific Ocean Perch	30%	15%	8%	15%	14%	18%
EAI Pacific Ocean Perch	30%	15%	8%	15%	14%	18%
BS Other Red Rockfish	23%	18%	8%	16%	16%	19%
AI Sharpchin/Northern	30%	15%	8%	15%	14%	18%
AI Shortraker/Rougheye	22%	18%	7%	18%	17%	18%
BS Other Rockfish	25%	21%	7%	12%	13%	22%
AI Other Rockfish	23%	17%	7%	18%	17%	18%
Other Species	18%	20%	10%	16%	16%	20%
Prohibited Species						
Zone 1 Red King Crab	29%	23%	8%	7%	7%	26%
Zone 1 Bairdi Tanner Crab	26%	24%	8%	8%	8%	26%
Zone 2 Bairdi Tanner Crab	23%	22%	9%	12%	11%	23%
Opilio Tanner Crab	24%	22%	9%	11%	10%	24%
Pacific Halibut	22%	22%	9%	12%	12%	23%
Chinook Salmon	15%	21%	4%	23%	23%	14%
Non-chinook Salmon	15%	21%	5%	23%	22%	14%
Halibut CDQ						
Halibut Area 4B	100%	0%	0%	0%	0%	0%
Halibut Area 4C	10%	0%	90%	0%	0%	0%
Halibut Area 4D	0%	26%	0%	24%	30%	20%
Halibut Area 4E	0%	30%	0%	70%	0%	0%
Crab CDQ						
Bristol Bay Red King Crab	18%	18%	10%	18%	18%	18%
Norton Sound Red King Crab	0%	0%	0%	0%	50%	50%
Pribilof Red & Blue King Crab	0%	0%	100%	0%	0%	0%
St. Matthew Blue King Crab	50%	12%	0%	12%	14%	12%
Bering Sea C. Opilio Crab	10%	19%	19%	17%	18%	17%
Bering Sea C. Bairdi Crab	10%	19%	19%	17%	18%	17%

(acronyms defined on page 2 of Table 1)

Table 1, continued.

APICDA = Aleutian Pribilof Island Community Development Association

BBEDC = Bristol Bay Economic Development Corporation

CBSFA = Central Bering Sea Fishermen's Association

CVRF = Coastal Villages Region Fund

NSEDC = Norton Sound Economic Development Corporation

YDFDA = Yukon Delta Fisheries Development Association

BS = Bering Sea

AI = Aleutian Islands

EAI = Eastern Aleutian Islands

CAI = Central Aleutian Islands

WAI = Western Aleutian Islands

INFORMATION BULLETIN (01-07)
Sustainable Fisheries Division
907-586-7228

January 29, 2001
7:15 a.m.

RECEIVED
JAN 29 2001
N.P.F.M.C

NMFS ANNOUNCES THE EXTENSION OF THE INCIDENTAL TAKE LIMIT ESTABLISHED
FOR THE ENDANGERED SHORT-TAILED ALBATROSS
IN THE ALASKA HOOK-AND-LINE GROUND FISH FISHERY

The U.S. Fish and Wildlife Service (USFWS) recently extended the period of coverage of the 1999-2000 Biological Opinion and its accompanying Incidental Take Statement (ITS) on the effects of the Bering Sea and Aleutian Islands Management Area (BSAI) and Gulf of Alaska (GOA) groundfish hook-and-line fisheries on the endangered short-tailed albatross, according to James W. Balsiger, Administrator, Alaska Region, NMFS. This extension was effective as of January 1, 2001 and will be effective until it is superseded by a subsequent Biological Opinion.

The short-tailed albatross is protected by the Endangered Species Act and under the law, an incidental take level of 4 short-tailed albatrosses was established during the 2-year period of 1999 and 2000 for the groundfish hook-and-line fisheries in the BSAI and GOA. The USFWS has extended the 1999-2000 Biological Opinion and the accompanying ITS in anticipation of new information on the effectiveness of seabird avoidance measures. The new information will be based on final research results from a Washington Sea Grant Program (WSGP) 2-year study evaluating the effectiveness of seabird avoidance measures. These results will assist in guiding USFWS as it completes a new Biological Opinion. Ed Melvin, the WSGP researcher conducting the study, is scheduled to present final results at the North Pacific Fishery Management Council's meeting in April 2001. He intends to recommend changes to the existing regulations based on the scientific findings of his research.

No short-tailed albatrosses were reported taken in 1999 and 2000. If the incidental take level of 4 is exceeded prior to the issuance of a subsequent Biological Opinion, NMFS must immediately reinstate formal consultation with the USFWS and review the need for possible modifications of the reasonable and prudent measures designed to minimize the level of incidental take associated with project activities.

This information bulletin provides information about NMFS's requirements under the Endangered Species Act. Contact Kim Rivera, Protected Resources Division, NMFS, if you have any questions; 907-586-7424, or 907-586-7235